

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

ALVIN LYNN TRANTHAM,

Petitioner,

v.

GREG PROVINCE,

Respondent.

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Case No. 07-CV-156-JHP-KEW

**ORDER AFFIRMING AND ADOPTING THE REPORT AND
RECOMMENDATION OF THE UNITED STATES
MAGISTRATE JUDGE**

On August 2, 2010, the United States Magistrate Judge entered her Report and Recommendation in regard to Petitioner's Petition for Writ of Habeas Corpus [Docket No. 2]. The Magistrate Judge recommended the petition be dismissed. On August 16, 2010, the Petitioner filed an objection to the Magistrate Judge's Report and Recommendation.

The basis of the Petitioner's objection is that the Magistrate Judge's finding that Thrantham was not " 'in custody' at any time when he met with Officer Hendrix at a motel, nor a police station for approximately two hours," therefore, not entitling him to *Miranda* warnings, was in error. The Petitioner further contends the Magistrate Judge inappropriately provided deference to the Oklahoma Court of Criminal Appeals decision.

The Court has reviewed Petitioner's objections and has determined them to be without merit. The Court finds that the Report and Recommendation of the Magistrate Judge is fully supported by the record and applicable case law; thus, Petitioner's objections must be overruled. Therefore, upon full consideration of the entire record and the issues presented herein, this Court finds and orders that the Report and Recommendation entered by the United States Magistrate Judge on August 2,

2010, be **AFFIRMED** and **ADOPTED** by this Court as its Findings and Order. Petitioner's Petition for Writ of Habeas Corpus is therefore **DISMISSED**.

IT IS SO ORDERED this 21st day of September, 2010.



James H. Payne
United States District Judge
Eastern District of Oklahoma